

PART XVII

RECIPIENT CLAIMS

<u>CHAPTER</u>	<u>SUBJECT</u>	<u>PAGES</u>
A.	CLAIMS AGAINST HOUSEHOLDS	1
B.	TYPES OF CLAIMS	1
1.	Agency Error (AE) Claims	1
2.	Inadvertent Household Error (IHE) Claims	1
3.	Intentional Program Violation (IPV) Claims	1
a.	Referral for Prosecution	2
b.	Referral for Administrative Disqualification Hearing (ADH)	2
C.	CALCULATING THE CLAIM AMOUNT	3
1.	Claims Not Related to Trafficking	3
2.	Trafficking Claims	5
D.	CLAIM ESTABLISHMENT	5
1.	Claim Thresholds	5
2.	Liable Persons	5
E.	INITIATING COLLECTION ACTION	6
1.	Demand Letters	6
2.	Compromising Claims	7
F.	COLLECTION METHODS	7
1.	Allotment Reduction	7-8
2.	Lump Sum Payments	8
3.	Installment Payments	8
4.	Electronic Benefits Transfer Accounts	8-9
5.	Offsets to Restored Benefits	9
6.	Public Service	9
7.	Treasury's Offset Programs (TOP)	9
8.	Other Collection Actions	9-10
9.	Unspecified Collections	10
10.	Overpaid Claims	10
G.	COLLECTING IPV CLAIMS	10-11
H.	ESTABLISHING AND COLLECTING CLAIMS FROM ALIENS AND/OR THEIR SPONSORS	11
I.	CHANGES IN HOUSEHOLD COMPOSITION	11-12
J.	DETERMINING DELINQUENCY	12

PART XVII

RECIPIENT CLAIMS (CONTD)

<u>CHAPTER</u>	<u>SUBJECT</u>	<u>PAGES</u>
K.	TERMINATING COLLECTION	12-13
L.	INVALID CLAIMS	13
M.	IPV DISQUALIFICATION PENALTIES	13
	1. IPV Penalties	13
	2. Reporting Procedures	14
	3. Imposition of Penalties	15-16
	4. Use of Disqualified Recipient Subsystem Prior to Certification	16-17
N.	DOCUMENTATION	17
O.	INTRASTATE/INTERSTATE CLAIMS COLLECTION	17
P.	BANKRUPTCY	17-18
Q.	SUBMISSION OF PAYMENTS	18
R.	DISPUTED CLAIMS	18-19
S.	OTHER MONEY RETURNS	19
T.	CLAIMS TRACKING SYSTEM	19

08/01

VOLUME V, PART XVII, PAGE 1

A. CLAIMS AGAINST HOUSEHOLDS (7 CFR 273.18(a))

A claim against a household is an amount owed because:

- (1) a household received more food stamp benefits than it was entitled to receive, resulting in an overpayment; or
- (2) food stamp benefits were trafficked.

Trafficking is defined as the buying or selling of coupons, Authorization to Participate (ATP) cards or Electronic Benefits Transfer (EBT) cards or benefits for cash or consideration other than eligible food; or for the exchange of firearms, ammunition, explosives, or controlled substances.

B. TYPES OF CLAIMS (7 CFR 273.18(b))

There are three types of claims:

1. Agency Error (AE) Claims

An Agency Error is any claim for an overpayment caused by an action or failure to take action by the State or local agency. Exception: A claim must not be established against a household that transacted an unaltered, expired Authorization to Participate (ATP) card.

2. Inadvertent Household Error (IHE) Claims

An Inadvertent Household Error is any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household.

3. Intentional Program Violation (IPV) Claims

An Intentional Program Violation is any claim for an overpayment or trafficking resulting from an intentional error on the part of the household. An IPV is defined in Definitions.

In order for a claim to be an IPV, there must have been a finding of IPV or fraud by a court, a signed waiver to an Administrative Disqualification Hearing (ADH), or a finding of IPV by a hearing officer as a result of an ADH.

Prior to the determination of IPV, a claim against the household must be established as an IHE claim, except for a trafficking claim, which can only be established as an IPV. However, if the prosecutor advises the local agency that collection action will prejudice the case, or the person responsible for signing ADH referrals decides to

postpone collection action on cases referred for ADH, no collection action should be taken. If the household member is found not guilty of IPV, either by a court or through an ADH, the claim will be handled as an IHE claim.

a. Referral for Prosecution (7 CFR 273.16(a))

The local agency must confer with the local prosecutor to determine the types of cases which will be accepted for possible prosecution, and cases of alleged IPV will be referred for prosecution in accordance with the agreement established between the local agency and the prosecutor. This agreement must include information on how and under what circumstances cases will be accepted for possible prosecution, and any other criteria set by the prosecutor for accepting cases for prosecution, such as a minimum amount of overpayment.

The local agency may refer a case for prosecution, regardless of the current eligibility of the individual. The local agency is encouraged to refer for prosecution those persons suspected of committing an IPV where large amounts of overpaid benefits are involved or more than one act of IPV is suspected.

The local agency should encourage the prosecutor to recommend to the court that a disqualification penalty be imposed in addition to any other criminal penalties for such violations. Information on prior IPV's should be shared with the prosecutor to support the assignment of an appropriate disqualification period.

b. Referral for Administrative Disqualification Hearing (ADH)
(7 CFR 273.16(e))

An administrative disqualification hearing (ADH) is an impartial review by a hearing officer of a household member's actions involving alleged IPV for the purpose of rendering a decision of guilty or not guilty of committing an IPV.

The local agency may refer an individual for an ADH regardless of the current eligibility of the individual.

The local agency should request an ADH under these circumstances:

- (i) the agency believes the facts of the case do not warrant criminal prosecution through the courts;

- (ii) a case referred for prosecution was declined by the prosecutor;
- (iii) a case referred for prosecution was formally withdrawn by the local agency because no action was taken by the prosecutor within a reasonable period of time.

Cases dismissed in court or acquitted in court may not be referred for an ADH. A case is not to be referred for an ADH while its referral for prosecution is in process. An ADH does not prevent the local agency, state or federal government from prosecuting the household member for an IPV in a court of appropriate jurisdiction.

C. CALCULATING THE CLAIM AMOUNT (7 CFR 273.18(c))

1. Claims Not Related to Trafficking

A claim must be calculated back to at least twelve months prior to when the local agency discovered the overpayment, except for an IPV claim, which must be calculated back to the month the act of intentional program violation first occurred. In addition, for all claims, the local agency must not include any time period that occurred more than six years before the local agency discovered the overpayment.

The local agency must determine the correct amount of benefits for each month the household participated. The income conversion factors of 4.3 or 2.15 must be used, if appropriate, based on [Part XIII.A.3](#), to determine the monthly income. If the claim is an IHE or an IPV claim, the local agency must not apply the earned income deduction to that part of any earned income that the household failed to report in a timely manner.

If, due to either an inadvertent error on the part of the household or an intentional act on the part of the household, a household failed to report a change in its circumstances within 10 days of the date the change became known to the household, the first month that benefits were overpaid will be the first month in which the change would have been effective had it been reported in a timely manner. **Factor in only the 10-day reporting period and the advance notice period.** In no event, however, may the local agency determine as the first month in which the change would have been effective, any month later than two months from the month in which the change in household circumstances occurred.

If the household reported a change within the prescribed time limits, but the local agency did not act on the change on time, the first month affected by the local agency's failure to act must be the first

month the local agency should have made the change effective. Therefore, if an advance notice was required but was not sent, the local agency must assume that the maximum advance notice period as provided in [Part XIV.A.](#) would have expired without the household requesting a fair hearing. **Do not factor in a 10-day agency action period.**

For categorically eligible households, a claim will only be determined when it can be computed on the basis of changed household net income or household size. A claim may not be established if there was not a change in net income and/or household size.

If an overpayment is discovered for a month or months in which a mandatory Food Stamp Employment and Training participant has already participated in a work experience assignment, the agency must follow these procedures:

- a. If the person who performed the work is still subject to a work obligation, determine how many extra hours were worked because of the improper benefit. The participant is to be credited that number of hours toward future work obligations.
- b. If the work experience assignment does not continue, determine whether the number of hours involved is more than the number which could have been assigned had the proper allotment been used to calculate the work obligation. Establish a claim for the amount of the overpayment not "worked off", if any. If the hours worked equal the amount of hours calculated by dividing the overpayment by the federal minimum wage, no claim will be established. No credit for future work requirements may be given.

Once the local agency calculates the amount of correct benefits the household should have received, the local agency must subtract the correct amount of benefits from the benefits actually received to determine the amount of the overpayment or claim.

After calculating the amount of the claim, the local agency must offset the amount of the claim by any amounts which have not yet been restored to the household. The Record of Entitlement to Lost Benefits must be completed to document the offsetting. The original must be sent to the household and a copy must be retained by the agency. The local agency must also offset the amount of the overpayment by any electronic benefits expunged from the household's EBT account. The difference is the amount of the claim.

If the information needed to compute an overpayment is lacking, no claim can be established until such time that the information is received.

7/04

VOLUME V, PART XVII, PAGE 5

2. Trafficking Claims

The amount of a claim resulting from trafficking of food stamp benefits will be determined by:

- a. the individual's admission of the amount trafficked; or
- b. a determination by a court; or
- c. documentation that forms the basis for the trafficking determination, such as EBT transaction data.

For both trafficking and non-trafficking claims, the local agency must maintain documentation to support how the claim was calculated.

D. CLAIM ESTABLISHMENT (7 CFR 273.18(d)(1))

A claim must be established before the end of the calendar quarter following the quarter in which the overpayment or trafficking incident was discovered. The date of discovery is the date the local agency has sufficient information to determine that an overpayment or trafficking offense has occurred. The local agency must document the date of discovery. The local agency must ensure that no less than 90 percent of all potential claims are either established or disposed of within this time frame.

1. Claim Thresholds (7 CFR 273.18(e)(2)(ii))

The local agency must establish a claim for a non-participating household for any household-caused overpayment that totals more than \$125 and for any agency-caused overpayment that exceeds \$300. The local agency must also establish a claim for an overpayment in any amount for a participating household or for an error identified in a Quality Control review. The local agency, however, may initiate collection action for claims under the \$125 or \$300 threshold or when multiple overpayments for a household total or exceed the threshold for the claim type.

2. Liable Persons (7 CFR 273.18(a)(4))

The following persons are responsible, or liable, for paying a claim:

- a. Each person who was, **or should have been**, an adult member of the household, age 18 or older, when the overpayment or trafficking first occurred;
- b. A sponsor of an alien household member if the sponsor was at fault;

- c. A person connected to the household, such as an authorized representative, who actually caused an overpayment or trafficking.

E. INITIATING COLLECTION ACTION (7 CFR 273.18 (e))

1. Demand Letters

The local agency must initiate collection action by mailing or otherwise delivering to the household the appropriate initial demand letter, *Request for Repayment of Extra Food Stamps* and a *Repayment Agreement*. The demand letter and repayment agreement must be sent immediately following the establishment of the claim, unless the household cannot be located or a court ordered repayment of the claim. Additionally, if a claim is established as an IHE and collection action is being postponed because the case is being referred for prosecution or an ADH, the local agency must initiate collection action by sending the demand letter and a repayment agreement, if the case is not accepted for prosecution or an ADH. The local agency must retain a copy of the initial demand letter to document the claim was properly established.

The household has 20 days from the date of the initial demand letter to tell the local agency how the household intends to repay the claim. The household must make its first payment within 30 days of the date of the letter.

If the household pays the claim, follow the procedures in [Part XVII.P](#) for submitting payments.

If a participating household does not respond to the initial demand letter, allotment reduction must be initiated. The household's allotment must be reduced not later than the first day of the second month following the date of the initial demand letter.

If a non-participating household does not respond to the initial demand letter, a *Request for Extra Food Stamps-Follow-Up* demand letter and *Repayment Agreement* should be sent at 30-day intervals until the household has responded by paying, or agreeing to pay the claim or until the criteria for terminating collection action, as specified in [Part XVII.K](#) have been met.

If the non-participating household agrees to repay the amount of the overpayment but does not make a payment by the due date specified on the *Repayment Agreement*, the local agency should send a *Request for Repayment of Extra Food Stamps-Payment Overdue* letter at 30 day intervals until the household begins to pay again, or until the criteria for terminating collection action, as specified in [Part XVII.K](#) have been met. If the household makes the overdue payments and wishes to continue payments based on the previous schedule, permit the household to do so.

If the household requests re-negotiation and the local agency concurs with the request, the household may negotiate a new payment schedule. Both the local agency and the household have the option to initiate re-negotiation of the payment schedule if they believe that the household's economic circumstances have changed enough to warrant such action.

If a participating household agrees to repay the claim by making installment payments, and does not submit a payment by the specified due date, the local agency must invoke allotment reduction.

2. Compromising Claims

If it can be reasonably determined that the household's economic circumstances dictate that the claim will not be paid in three years, the local agency may compromise the claim, or any portion of the claim, by reducing it to an amount that will allow the household to pay the claim in three years. The local agency may use the full amount of the claim, including any amount compromised, to offset a restoration of lost benefits. The local agency may reinstate any compromised portion of the claim, if the claim becomes delinquent. The local agency must document the reason for the compromise.

F. COLLECTION METHODS (7 CFR 273.18(f)&(g))

1. Allotment Reduction (7 CFR 273.18(g)(1))

A household may choose to have its food stamp allotment reduced to repay a claim. However, the local agency must implement allotment reduction against a participating household unless the household is making regular payments in an amount greater than the amount that could be recovered through allotment reduction or another household is already having its allotment reduced for the same claim.

Prior to reduction, the local agency must inform the household orally or in writing of the appropriate formula for determining the amount of food stamps to be recovered each month and the effect of that formula on the household's allotment, i.e., the amount of food stamps the local agency expects will be recovered each month.

For an AE or an IHE claim, the amount of the reduction must be limited to 10% of the allotment or \$10, whichever is greater, unless the household agrees to a higher amount. For an IPV claim, the amount of the reduction must be limited to 20% or \$20, whichever is greater, unless the household agrees to a higher amount. The *Repayment Agreement* must be used to document the household's request for a higher allotment.

The local agency may not reduce the initial month's allotment at application or reapplication unless the household agrees to the reduction. The local agency must document this agreement.

The local agency or State agency may not use involuntary collection methods, such as state or federal offsets, against individuals in a household that is having its allotment reduced.

2. Lump Sum Payments (7 CFR 273.18(g)(4))

The local agency must accept any payment for a claim, whether it represents full or partial payment. The payment may be made with paper food coupons, cash, check, money order, credit or debit card. The local agency does not have to accept a credit or debit card if the local agency does not have the capability to accept these types of payments. The local agency must retain appropriate documentation of the payment. The local agency must destroy any food coupons or coupon books and retain documentation of the destruction.

3. Installment Payments (7 CFR 273.18(g)(5))

The local agency may accept installment payments as the result of a negotiated repayment agreement. The repayment agreement must include a due date for the payments. The payments may be made by paper food coupons, cash, check, money order, credit or debit card. The local agency does not have to accept a credit or debit card if the local agency does not have the capability to accept these types of payments. **Unless a court order prohibits it, a certified household must make installment payments in an amount that is equal to or greater than the amount that is recoverable through allotment reduction.** The local agency must retain appropriate documentation of the payments. The local agency must destroy any coupons or coupon books and retain documentation of the destruction.

If the household does not submit a payment in accordance with the terms of its negotiated repayment agreement, the claim will be considered delinquent and subject to additional collection actions. If the household is participating in the program, allotment reduction must be invoked.

4. Electronic Benefit Transfer (EBT) Accounts (7 CFR 273.18(g)(2))

The local agency must allow a household to pay its claim using benefits from its EBT account. At the household's request, this reduction may be used in addition to allotment reduction or other repayment methods. **If a certified household chooses EBT account deduction as the primary collection method, the monthly payment must be equal to or greater than the amount that is recoverable through allotment reduction, unless a court order prohibits it.**

The local agency must obtain written permission from the household in order to collect from a household's active EBT account. The household should complete the *Repayment Agreement* form to note permission for a one-time or monthly payment from the EBT account. The agency must send the household a receipt of each transaction.

The local agency may collect from a household's dormant EBT account (between 91 and 364 days of inactivity), but only after the agency mails the household a notice about a deduction from the EBT account. The agency may use the *Notice of Deduction from an Inactive EBT Account* form. Unless the household notifies the local agency within 20 days of the notice that it does not want its dormant EBT account reduced, the local agency may collect from this account.

After 365 days of inactivity, the local agency must also use any benefits expunged from the household's EBT account to offset the amount of the claim. This offset may be done at any time during the collection process. The local agency does not need the household's permission to apply expunged benefits to a claim but the agency must send the household a receipt to note the claim reduction. The agency may use the *Notice of Deduction from an Inactive EBT Account* form as the receipt

5. Offsets to Restored Benefits (7 CFR 273.18(g)(3))

The local agency must reduce any restored benefits owed to a household by the amount of any outstanding claim. This offset may be done at any time during the collection process.

6. Public Service (7 CFR 273.18(g)(7))

The local agency may accept public service as a form of payment, but only if a court orders the public service specifically in lieu of paying the claim. The local agency, in conjunction with the court, should set the hourly rate for the work performed. The local agency must retain appropriate documentation.

7. Treasury's Offset Programs (TOP) (7 CFR 273.18(n))

The State agency must refer eligible claims that are delinquent for six months or more to TOP for offset against any eligible Federal payment, including, but not limited to, federal tax refunds, salaries of federal employees and retirement benefits. Claims will be submitted to TOP in accordance with the Department of Treasury's instructions.

8. Other Collection Actions (7 CFR 273.18(g)(8))

The local agency may employ involuntary collection action to collect delinquent claims against non-participating households. These

4/03

VOLUME V, PART XVII, PAGE 10

actions include, but are not limited to, civil action, to include wage garnishments and/or liens against property, referral to public or private collection agencies, **and** the repayment of claims by offsetting the balance against state tax refunds or lottery payments.

9. Unspecified Collections

When funds are received for a combined public assistance/food stamp claim and the household does not specify to which claim to apply the collection, each program must receive its pro rata share of the amount collected.

10. Overpaid Claims

If a household overpays a claim, the household must be provided a refund as soon as possible after the over-collection is discovered, unless the over-collection is attributed to an expunged EBT benefit. The method of refund will depend on what caused the overcollection. For example, an overcollection due to allotment reduction will be refunded by a restoration to the household.

G. COLLECTING IPV CLAIMS

When a household member is found to have committed an IPV by a court of appropriate jurisdiction, the local agency must request the matter of restitution be brought before the court. If the court mandates restitution, the amount of the claim against the household will be established by the court, even if the amount of restitution ordered is less than the amount of the original claim. The court order to repay will serve as the household's demand letter.

If the court does not rule on restitution, or the IPV was established by an ADH, or the household member waived his/her right to an ADH, the local agency must initiate collection action by sending the household the demand letter, *Request for Repayment of Extra Food Stamps (IPV)* and a *Repayment Agreement*, unless:

- The household has repaid the overpayment as a result of an IHE demand letter; or,
- The local agency has documentation that shows the household cannot be located.

An IPV demand letter and a repayment agreement must also be sent for any unpaid or partially paid IPV claim, even if the household has previously received an IHE demand letter.

The local agency should pursue other collection action to obtain restitution against any household that fails to respond to a written demand letter for repayment of any IPV claim if the claim cannot be collected through direct payment or allotment reduction, unless the agency can determine that other means are generally not cost effective.

If an individual who was court ordered to repay the overpayment does not pay as ordered, the local agency should advise the local prosecutor or the probation office, as appropriate.

H. ESTABLISHING AND COLLECTING CLAIMS FROM ALIENS AND/OR THEIR SPONSORS
(7 CFR 273.11(j)(8))

Any sponsor of an alien and the alien are both liable for the repayment of any overpayment which occurred as a result of incorrect information provided by the sponsor, unless the sponsor establishes good cause or was without fault for providing the incorrect information. It is the sponsor's responsibility to establish good cause to the satisfaction of the local agency.

If the sponsor does not establish good cause, the local agency must initiate collection action by sending the sponsor the appropriate initial demand letter and a repayment agreement. If the sponsor does not respond to the demand letter, the local agency may pursue other collection actions, as appropriate, to obtain payment of the claim. If the sponsor responds to the demand letter, the collection procedures described in [Part XVII F.](#) must be followed.

The sponsor is entitled to a fair hearing to contest a determination that the sponsor was at fault in providing incorrect information or to contest the amount of the claim.

If the sponsor does establish good cause, the local agency must initiate collection action by sending the household the appropriate initial demand letter and repayment agreement. If the household responds to the demand letter, the collection procedures described in [Part XVII F.](#) must be followed. If a participating household does not respond to the demand letter within 20 days of the date on the letter, allotment reduction must be invoked. If a non-participating household does not respond to the demand letter, the local agency may pursue other collection action as appropriate, to obtain payment of the claim.

I. CHANGES IN HOUSEHOLD COMPOSITION (7 CFR 273.18(g)(1)(vii))

If a household's membership has changed since the overpayment occurred, the local agency may pursue collection action against any household which has a

4/03

VOLUME V, PART XVII, PAGE 12

member who was an adult member of the household that received the overpayment. The agency may also offset the amount of the claim against restored benefits owed to any household which has a member who was an adult member of the original household at the time the overpayment occurred. See [Part XVI.B.5.](#) for the process to apply amounts due for restoration against outstanding claims.

The local agency may also pursue collection from any individual liable for the claim that is not currently a member of a participating household that is undergoing allotment reduction.

J. DETERMINING DELINQUENCY (7 CFR 273.18(e)(5))

A claim must be considered delinquent if:

- the claim has not been paid by the due date on the initial demand letter or repayment agreement and a satisfactory payment arrangement has not been made; or
- a payment arrangement has been established and a scheduled payment, either no payment or one in a lesser amount, has not been made by the due date on the repayment agreement.

The claim will remain delinquent until payment is received in full, a satisfactory payment agreement is negotiated or allotment reduction is invoked.

A claim will not be considered delinquent if:

- another claim for the same household is currently being paid, either through an installment agreement or allotment reduction, and the local agency expects to begin collection on the claim once the prior claim(s) is paid in full; or
- the local agency is unable to determine delinquency status because collection is coordinated through the court or probation office; or
- a fair hearing has been requested and a hearing decision has not been rendered.

K. TERMINATING COLLECTION (7 CFR 273.18(e)(8))

A claim must be terminated for a non-participating household, or any of its adult members, if the claim meets any of the following criteria:

10/04

VOLUME V, PART XVII, PAGE 13

1. All adult members of the household are dead and there are no plans by the local agency to pursue collection from the estate; or
2. A claim has an outstanding balance of \$25 or less and no payment has been made for 90 days or more; or
3. No payments have been received in three years and the claim has not been referred to TOP; or
4. The household cannot be located, unless the claim has been referred to TOP. If the claim has been referred to TOP, the local agency may keep the claim active until the claim meets criteria #3, listed above; or
5. A claim has been discharged through bankruptcy; or
6. A claim has been transferred to another state for collection.

A claim against a participating or a non-participating household must also be terminated if there is insufficient information or documentation to substantiate that the claim was properly established or to determine the correctness of the balance due. Properly established means that an initial demand letter was mailed or a court ordered repayment.

The local agency must document the reason for the termination.

L. INVALID CLAIMS

A claim found to be invalid through a fair hearing, the ADH process, a court determination, or discovered as erroneously established by the State or local agency, must be deleted from the claims tracking system.

M. IPV DISQUALIFICATION PENALTIES (7 CFR 273.16(b))

1. IPV Penalties

Individuals found to have committed an IPV, either by a court of appropriate jurisdiction or by an ADH or, who waived their right to an ADH, are ineligible to participate in the Food Stamp Program for:

- a. One year for the first violation;
- b. Two years for the second violation; and,
- c. Permanently for the third violation.

10/05

VOLUME V, PART XVII, PAGE 14

- d. Ten years for a determination that fraudulent statements or representations of identity or residency were made to receive benefits in more than one household at the same time. The ten-year penalty does not apply when a household fails to report a move to the agency at a former address.

An individual may receive more than one IPV by violating two or more unrelated program rules, such as change reporting and trafficking, during the same time period.

In addition to these disqualification penalties, individuals may be disqualified from the program for other program violations. Individuals will be disqualified for two years for a finding by a court that they used food stamps to purchase illegal drugs. A second court finding regarding these purchases will result in permanent disqualification from the program.

Individuals will be permanently disqualified from the program based on a court finding that food stamps were used to purchase firearms, ammunition, or explosives, even if it is the first such finding.

A conviction of trafficking in food stamps of \$500 or more will also result in the permanent disqualification of the individual.

2. Reporting Procedures (7 CFR 273.16(i))

Local workers must complete the Disqualified Recipient Report screen of the Claims Tracking System. Online screen help is available in the Claims Tracking System to allow the worker to identify correctly the offense code and associated penalty.

In addition to completing the Disqualified Recipient Report screen, workers must enter information in the Electronic Disqualified Recipient Subsystem (eDRS) to report information about individuals disqualified for an IPV. The disqualification may be based on an ADH, a conviction by a court of appropriate jurisdiction, or a waiver to an ADH. Local workers must enter information in the eDRS within 30 days of the effective date of disqualification.

In cases where the disqualification for IPV is reversed by a court of appropriate jurisdiction, or was submitted in error, the agency must **update the eDRS** to delete the information relating to the disqualification.

10/05

VOLUME V, PART XVII, PAGE 15

3. Imposition of Disqualification Penalties

To determine the appropriate disqualification penalty to impose on an individual who has been found to have committed fraud or an IPV, the local agency must access the **eDRS** to see if there is a record of other IPV rulings for individual household members.

One or more IPV disqualifications that occurred before April 1, 1983, will be considered as only one previous disqualification when determining the appropriate penalty to impose in a case under consideration.

When **eDRS** is used to determine the disqualification penalty for an individual found to have committed an IPV, the local agency must verify the information with the Locality Contact provided by the **eDRS**. A verbal confirmation from the Locality Contact may be accepted for the initial assessment but documentation that supports the prior disqualification(s), must be obtained before a final determination is made of the length of the penalty.

The actual number of prior disqualifications will determine the penalty for a new IPV, not the disqualification number that a State or a Virginia locality assigned to the offense. Only the individual found guilty of IPV is disqualified, not the entire household.

If a court fails to impose a disqualification period for the IPV or fraud conviction, the local agency must impose the disqualification penalties described in this chapter unless it is contrary to the court order. If disqualification is ordered by the court, but a date for initiating the disqualification period is not specified, the individual must be disqualified beginning with the first month which follows the date of the court decision.

If a hearing officer rules that the household member committed an IPV, that member must be disqualified beginning with the first month that follows the date the household member received written notification of the hearing decision. If the household member signed a waiver to an ADH, that member must be disqualified beginning with the first month which follows the date the signed waiver was received by the agency.

For a disqualification that results from a court decision or the Administrative Disqualification Hearing process, the local agency must send the Notice of Disqualification to inform the household of the length, reason and starting date of the disqualification. The local agency must maintain a copy of the report.

10/05

VOLUME V, PART XVII, PAGE 16

A local agency may not lengthen the disqualification period after it has been imposed by judicial decision, ADH, or waiver. Once a disqualification penalty has been imposed, the period of disqualification must continue uninterrupted until completed, regardless of the eligibility of the disqualified member's household. If an additional IPV is determined for a person who is already serving a disqualification period, the new disqualification period(s) must begin before the original period expires so that the disqualification periods run concurrently.

If the local agency determines the household member is currently serving a disqualification imposed by another locality within Virginia or imposed by another state, the local agency must calculate how much time is remaining in the disqualification period before adding the person to the case as an active household member. If a month or more remains in the disqualification period, the local agency must disqualify the household member for the remainder of the disqualification period.

If the agency fails to impose the disqualification within the timeframes described above, an agency-caused claim (AE) must be established for the months the individual should have been disqualified. A household-caused claim (IHE) must be established if the agency discovers that a member participated during a disqualification period imposed by another locality or state.

4. Use of **eDRS** Prior to Certification

The data submitted to the **eDRS** can be used to determine the eligibility of persons prior to certification, when the agency has reason to believe a person is subject to disqualification in another political jurisdiction.

Information obtained from the **eDRS** must be independently verified. A verbal response from the **eDRS** Locality Contact is acceptable for the initial assessment. The household must be given an opportunity to respond to the verbal information obtained from the Locality Contact. If the household affirms the verbal information provided by the Locality Contact, a determination on the individual member's eligibility may be made without additional documentation from the Locality Contact. The household is allowed a minimum of 10 days to respond to the **eDRS** findings.

If the household member disputes the information or fails to respond to the request for information, the EW must get written documentation from the Locality Contact to process the application or to determine the length of the disqualification penalty. If the household is not entitled to expedited processing, the agency must hold the application pending until the written verification from the Locality

10/05

VOLUME V, PART XVII, PAGE 17

Contact is received. Applications entitled to expedited processing must be processed and benefits delivered within the required seven-day period, even if the household's affirmation or written documentation from the Locality Contact is not received by the seventh day. An IHE claim must be established, however, for any overpaid benefits.

N. DOCUMENTATION

The local agency that establishes the claim must maintain documentation to support proper establishment of the claim, including how the overpayment amount was determined, documentation to support the date of discovery and documentation to support disqualification. In addition, documentation to support the balance due must also be maintained by the agency(s) collecting the payments. Documentation includes, but is not limited to, verifications from employers, landlords, schools; applications with false or omitted information; a copy of the initial demand letter; a copy of the *Notice of Disqualification*; and receipts for cash payments. If the local agency does not have documentation to support the claim, the claim must be terminated.

O. INTRASTATE/INTERSTATE CLAIMS COLLECTION (7 CFR 273.18(i))

In cases where a household moves out of the locality or out of Virginia, the local agency may initiate or continue collection action against the household for any overpayment to the household which occurred while the household was under the local agency's jurisdiction. If the local agency does not intend to pursue collection from a household that has moved to another state because the other state will be pursuing collection, i.e. allotment reduction, the claim must be terminated.

Local agencies may pursue collection on claims established in another locality or state. The local agency or state that overpaid benefits to the household will have the first opportunity to collect any overpayments. If the local agency or state which overpaid benefits, however, does not take prompt action to collect, then the local agency which has jurisdiction over the area into which the household moves should initiate action to collect the overpayment. However, prior to initiating action to collect such overpayments, the local agency in the new locality must contact the old locality or state to ascertain that it does not intend to pursue prompt collection or is not receiving payments on the claim.

P. BANKRUPTCY (7 CFR 273.18(j))

Local agencies must act on behalf of, and, as USDA, in any bankruptcy proceeding against bankrupt households owing food stamp claims. Local agencies possess any rights, priorities, interests, liens or privileges,

and must participate in any distributions of assets, to the same extent as USDA. Acting as USDA, local agencies have the power and authority to file objections to discharge, proofs of claims, exceptions to discharge, petitions for revocation of discharge, and any other documents, motions or objections that USDA might have filed. Any amounts collected under this authority must be transmitted to the Virginia Department of Social Services as normal claims payments.

Q. SUBMISSION OF PAYMENTS (7 CFR 273.18(1))

Once a month, local agencies must submit one consolidated check, payable to the "Treasurer of Virginia", to cover cash and state tax intercept payments received from all households for the month. The check must be sent to:

Virginia Department of Social Services
Division of Finance
7 North Eighth Street
Richmond, VA 23219-3301

The *Monthly Payment Record* (MPR) must be sent with the consolidated check. If no cash or state tax intercept payments are received during the month, a MPR must still be submitted to indicate that no payments were received. The check and the MPR must be sent so as to be received by the 15th day of the month following the report month.

R. DISPUTED CLAIMS

If a fair hearing or a court did not establish the amount of a claim, the household has 90 days from the date of the demand letter to appeal the amount by requesting a fair hearing.

The household must also be notified of the following actions relating to claims and has the right to appeal these:

- After initial notification, whenever the amount of the claim changes;
- Whenever a claim is used to offset a restoration and prior notification of the claim had not been given;
- When multiple overissuances total \$125 or more and collection action is now being initiated, and prior notification of the claim had not been given.

4/03

VOLUME V, PART XVII, PAGE 19

If the fair hearing determines that the claim is valid, the local agency must re-notify the household of the claim amount. The post-fair hearing notice must inform the household that the claim amount is still due and that repayment is required. A *Repayment Agreement* must be sent with the re-notification. The household cannot request a fair hearing based on this second notice. Delinquency will be determined by the due date of this subsequent notice, not the original demand letter.

S. OTHER MONEY RETURNS

Money is sometimes returned to the agency for reasons other than because of a claim. In these instances, the money is not to be submitted to the State Office as claims payments would be. A check or money order payable to "USDA-FNS-HQ" and a letter explaining the circumstances must be submitted to:

USDA-FNS-HQ
P.O. Box 953807
St. Louis, MO 63195-3809

T. CLAIMS TRACKING SYSTEM

All claims must be established in the Food Stamp Claims Tracking System (FSCTS) and Application Benefit Delivery Automation Project (ADAPT). All payments made against a claim must be reflected in both systems. Termination of claims must be reported to both systems. The date of the initial demand letter, court-ordered restitution date and any follow-up demand letters must be reflected in the FSCTS.